

**Cavco, Inc. and Metropolitan District Council of Philadelphia and Vicinity, United Brotherhood of Carpenters and Joiners of America, AFL-CIO. Case 4-CA-21541**

**DECISION AND ORDER**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH

Upon a charge filed by Metropolitan District Council of Philadelphia and Vicinity, United Brotherhood of Carpenters and Joiners of America, AFL-CIO (the Union), on May 19, 1993, the General Counsel of the National Labor Relations Board issued a complaint against Cavco, Inc. (the Respondent), alleging that it has violated Section 8(a)(1) and (3) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On July 12, 1993, the General Counsel filed a Motion for Summary Judgment with the Board. On July 15, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

**Ruling on Motion for Summary Judgment**

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated June 10, 1993, notified the Respondent that unless an answer was received by close of business June 17, 1993, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

The Respondent, a New Jersey corporation, with an office and place of business in Spring Lake Heights, New Jersey, has been engaged in the construction business and has performed services including at the Leader Nursing Home jobsite in Huntingdon Valley, Pennsylvania. During the year ending May 19, 1993, the Respondent performed services valued in excess of \$50,000 in States other than the State of New Jersey.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

On or about February 16, 1993, the Respondent interrogated an employee concerning the employee's union sympathies.

On or about March 12, 1993, the Respondent interrogated an employee concerning the employee's union activities, threatened an employee with discharge if the employee had engaged in union activities, instructed an employee not to engage in union activities, instructed an employee not to engage in union activities on the job, and threatened an employee with discharge if the employee continued to engage again in union activities.

On or about March 15, 1993, the Respondent interrogated employees concerning their union activities, and threatened to have employees who had engaged in union activities arrested if they returned to the jobsite.

On or about March 15, 1993, the Respondent discharged its employees John G. Bocklet, Ronald E. Dyer, and John R. Hosier because the employees engaged in union activities.

**CONCLUSIONS OF LAW**

1. By interrogating its employees, threatening its employees with discharge for continuing to engage in union activity, instructing employees not to engage in union activities, instructing employees not to engage in union activities on the job, threatening to have employees who had engaged in union activities arrested if they returned to the jobsite, and discharging its employees because they engaged in union activities, the Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act, in violation of Section 8(a)(1) of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

2. By discharging its employees because they engaged in union activities, the Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(3) and (1) of the Act and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

**REMEDY**

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action de-

signed to effectuate the policies of the Act. We shall order the Respondent to offer John G. Bocklet, Ronald E. Dyer, and John R. Hosier immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights and privileges previously enjoyed, and to make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, with backpay to be computed as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). The Respondent shall also be required to expunge from its files any and all references to the unlawful discharges, and to notify the discriminatees in writing that this has been done.

### ORDER

The National Labor Relations Board orders that the Respondent, Cavco, Inc., Spring Lake Heights, New Jersey, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Interrogating its employees concerning the employees' union sympathies or activities.

(b) Threatening an employee with discharge if the employee had engaged in union activities.

(c) Instructing an employee not to engage in union activities or not to engage in union activities on the job.

(d) Threatening an employee with discharge if the employee continued to engage again in union activities.

(e) Threatening to have employees who had engaged in union activities arrested if they returned to the job-site.

(f) Discharging its employees because they engaged in union activities.

(g) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Offer John G. Bocklet, Ronald E. Dyer, and John R. Hosier immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights and privileges previously enjoyed, and make them whole for any loss of earnings or other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of the decision.

(b) Expunge from its files any and all references to the unlawful discharge of John G. Bocklet, Ronald E.

Dyer, and John R. Hosier, and notify these employees, in writing, that this has been done.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its facility in Spring Lake Heights, New Jersey, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. August 17, 1993

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James M. Stephens, Chairman

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Dennis M. Devaney, Member

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John Neil Raudabaugh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

### APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize  
To form, join, or assist any union

To bargain collectively through representatives of their own choice

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT interrogate our employees concerning their activities or sympathies for Metropolitan District Council of Philadelphia and Vicinity, United Brotherhood of Carpenters and Joiners of America, AFL-CIO.

WE WILL NOT threaten our employees with discharge if they have engaged in union activities.

WE WILL NOT instruct our employees not to engage in union activities or not to engage in union activities on the job.

WE WILL NOT threaten to have employees who have engaged in union activities arrested if they returned to the jobsite.

WE WILL NOT discharge our employees because they engaged in union activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL offer John G. Bocklet, Ronald E. Dyer, and John R. Hosier immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights and privileges previously enjoyed, and WE WILL make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, with interest.

WE WILL notify John G. Bocklet, Ronald E. Dyer, and John R. Hosier that we have removed from our files any reference to their discharges and that we will not use the discharges against them in any way.

CAVCO, INC.